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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 JUSTIN BAKER,

8 Plaintiff,

9 v.

10 UNITED PARCEL SERVICE, INC., a  
11 Delaware corporation; and UNITED  
12 PARCEL SERVICE, INC., an Ohio  
Corporation,

13 Defendants.

CASE NO: 2:21-CV-0114-TOR

PARTIAL  
SCHEDULING ORDER

14  
15 A telephonic scheduling conference was held in the above-entitled matter on  
16 June 9, 2022. Michael J. Scimone appeared on behalf of Plaintiff. Naomi Beer  
17 and Sally W. Harmeling appeared on behalf of Defendants. The Court reviewed  
18 the Joint Status Report (ECF No. 45), heard from counsel, and is fully informed.

19 This matter has languished on the Court's docket since March 16, 2021. The  
20 Parties are reminded that the Federal Rules of Civil Procedure "should be  
construed, administered, and employed by the court and the parties to secure the

1 just, speedy, and inexpensive determination of every action and proceeding.” Fed.  
2 R. Civ. P. Rule 1.

3 **IT IS ORDERED:**

4 **1. General Court Procedures**

5 Pursuant to Fed. R. Civ. P. 16(b)(4), the dates set forth in this Order may be  
6 amended **only** by Order of the Court and upon a showing of good cause. Pursuant  
7 to Fed. R. Civ. P. 29, the parties may stipulate to other procedures governing or  
8 limiting discovery, except the dates set forth in this Order.

9 Counsel are to review and employ Local Civil Rule (LCivR) 83.1 (Civility)  
10 and Washington Rule of Professional Conduct 3.4 (Fairness To Opposing Party  
11 And Counsel).

12 **2. Mediation**

13 If parties elect to proceed to mediation, it should be completed as early as  
14 possible to avoid the unnecessary expenditure of judicial resources.

15 **3. Rule 26(a)(1) Exchange**

16 If not already accomplished, the parties shall disclose their Fed. R. Civ. P.  
17 26(a)(1) material **by June 16, 2022.**

18 **4. Motions to Amend Pleadings or Add Parties**

19 Any motion to amend the pleadings or add parties shall be filed  
20 no later than **February 15, 2023.**

1           **5. Class Certification**

2           Any motion for class certification must be filed on or before **March 17, 2023**.  
3           Defendants’ opposition to class certification is due on or before **April 21, 2023**.  
4           Plaintiff’s reply is due on or before **May 12, 2023**.

5           **6. Discovery Cutoff**

6                   **A. Generally**

7           All discovery, including depositions and perpetuation depositions, shall be  
8           completed by **a future date to be determined**. To be timely, discovery requests  
9           must be served sufficiently in advance of the deadline to allow for timely response  
10          by the cutoff date. The parties shall not file discovery, except those portions  
11          necessary to support motions or objections.

12                   **B. Depositions, Interrogatories, Requests for**  
13                   **Production/Admission**

14          Unless otherwise stipulated, no more than 10 depositions up to seven hours  
15          long, may be taken by the plaintiffs, or by the defendants, or by third-party  
16          defendants. Fed. R. Civ. P. 30(a)(2)(A) and (d)(1).

17          Unless otherwise stipulated, any one party may serve no more than 25 written  
18          interrogatories, including discrete subparts, on any other party. Fed. R. Civ. P.  
19          33(a)(1) and advisory committee notes (1993) explaining “discrete subparts”.  
20

1 Unless otherwise stipulated, any one party may serve no more than 30  
2 requests for production, including discrete subparts, on any other party. LCivR  
3 34(d).

4 Unless otherwise stipulated, any one party may serve no more than 15  
5 requests for admission, including discrete subparts, on any other party. LCivR  
6 36(c).

7 A party needing relief from these limitations should timely seek relief from  
8 the Court by motion.

### 9 **C. Protective Orders**

10 Any stipulation or motion for a confidentiality agreement or protective order  
11 must be timely filed so as not to delay the discovery process or the Court's  
12 deadlines. If confidential records are attached to court filings, "compelling  
13 reasons" must be shown to seal records attached to a dispositive motion and "good  
14 cause" must be shown to seal records attached to a non-dispositive motion.

15 *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178-80 (9th Cir.  
16 2006).

### 17 **D. Motions to Compel**

18 To avoid wasted time and expense, parties may contact chambers to schedule  
19 a telephonic conference to obtain an expedited ruling on discovery disputes. Prior  
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1 to contacting chambers, counsel shall confer and determine an agreed upon hearing  
2 date and time. Motions to compel seeking sanctions shall be filed in writing.

## 3 **7. Motion Practice**

### 4 **A. Notice of Hearing**

5 The parties are to comply with LCivR 7(i) when noting motions for hearing.  
6 If oral argument is sought by a party, counsel shall first confer and determine an  
7 agreeable hearing date and time, and then contact chambers to confirm the Court's  
8 availability for the agreed upon hearing date and time. All non-dispositive motion  
9 hearings shall be conducted telephonically, unless in-person argument is approved  
10 by the Court. Dispositive motion hearings in which oral argument has been  
11 requested will may be set for in-person or telephonic appearance. The use of  
12 cellular phones is permitted, but not in speaker mode and provided the caller is in  
13 an area with sufficient cellular service and minimal background noise. Landline  
14 phones may not be used in speaker mode. All phones shall be muted unless  
15 addressing the Court.

### 16 **B. Motions to Expedite**

17 If there is a need to have a motion heard on an expedited basis, the party must  
18 file a Motion for Expedited Hearing and an accompanying memorandum (or  
19 declaration) establishing the need for an expedited hearing. The Motion for  
20 Expedited Hearing shall be noted for hearing, without oral argument, no earlier

1 than two (2) days after the filing of the motion. The local rules do not provide for  
2 motions (including stipulated motions) to be noted for hearing for the same day  
3 they are filed.

#### 4 **C. Citing Previously-Filed Documents**

5 All references to a previously filed document shall cite to the electronic case  
6 filing (ECF) record number and page number within that ECF record, in the  
7 following format, “ECF No. \_\_\_ at \_\_\_.” Such documents shall not be attached as  
8 exhibits.

#### 9 **D. Reliance on Deposition Testimony**

10 When a party relies on deposition testimony to support a position it takes in  
11 support or opposition to an issue, that party shall provide the Court with the  
12 pertinent excerpts of the deposition testimony relied upon and shall cite to page  
13 and line numbers of the deposition it believes supports its position. *See generally*  
14 *LCivR 56(c)*. Submission of the entire deposition and/or failure to cite to specific  
15 portions of the deposition may result in the submission being stricken from the  
16 record. *See Orr v. Bank of America*, 285 F.3d 764, 774-75 (9th Cir. 2002).

#### 17 **E. Supplemental Responses or Replies**

18 No supplemental responses or supplemental replies to any motion may be  
19 filed unless the Court grants a motion to file such documents.

1                   **F. Motions to Reconsider**

2           Motions to Reconsider are disfavored. Motions must show manifest error in  
3 the prior ruling or reveal new facts or legal authority which could not have been  
4 brought to the Court's attention earlier. The motion shall be noted for expedited  
5 hearing without oral argument seven days after it is filed. No response to a motion  
6 for reconsideration need be filed unless requested by the Court. No motion for  
7 reconsideration will be granted without such a request by the Court.

8                   **8. Remaining Scheduling Dates**

9           All future scheduling dates will be entered once a class is certified.

10                   **IT IS SO ORDERED.**

11           The District Court Clerk is directed to enter this Order and provide copies to  
12 counsel.

13           DATED June 9, 2022.



15                   *Thomas O. Rice*

16                   THOMAS O. RICE  
17                   United States District Judge  
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